

CITY ATTORNEY MATTERS

APRIL 23, 2019 AGENDA

1. AGENDA

- A. The form of the agenda is set by Ordinance No. 2-26, Article 2.
- B. The content of the agenda is set by the City Commission.
 - (1) The City Manager controls only those items under “City Manager’s Report”
 - (2) The City Attorney controls only those items under “City Attorney’s Report”
 - (3) The City Clerk sets the remainder of the agenda – Ordinances, Resolutions, Proclamations, etc., and schedules them under the appropriate sections.
 - (4) All items set by the Commission for action should be automatically set on the next agenda by the City Clerk under “Old Business” for a report on the status of the item, or the completion of the item.
 - (5) “New Business” contains action items to be considered by the Commission, brought up by the Commission, City Manager, City Attorney, Clerk, or members of the public.
- C. This format assures the complete information flow to the Commission, and that all Commission-directed items are followed up on and completed.

RECOMMENDATION:

Motion to confirm the above-described process for the City Commission agenda.

2. ONE-ON-ONE MEETINGS BETWEEN THE CITY COMMISSION AND THE CITY MANAGER

Individual meetings between the Commissioners and the City Manager create possible Sunshine Law Violations and the Appearance of Violations.

The City Manager cannot get “direction” from the Commissioners, poll the Commission, or otherwise act based upon the conversations with Commissioners which occurred in private. All decisions must be made in a public meeting. This is particularly true if the meetings are scheduled weekly and successively (one meeting after the next). See pages 8 through 10 of the Government in the Sunshine Manual I previously provided each of you.

The very most these meetings could legally be used for is the provision of factual information to the individual City Commissioners. However, that information should also be available to the public, and distributed at a public meeting.

RECOMMENDATION:

Commissioners should immediately cease meeting one-on-one with the City Manager.

3. PALM BEACH COUNTY INSPECTOR GENERAL

- A. The Inspector General will be issuing a report in the next few days relating to City issues.
- B. The Inspector General is a free resource for the City's use, not a law enforcement agency.
- C. The City should consider making a request to the Inspector General for a Management Audit of the City's processes involved in procurement through disbursement of funds.

RECOMMENDATION:

Motion to instruct the City Attorney to contact the Inspector General and request a Management Audit for all processes involved in procurement through disbursement of funds.

4. CITY ENGINEER

The City Commission and the City Manager have not been getting appropriate engineering advice. For example:

- A. Any Pay Request by Technomarine should have been reviewed and approved by an Engineer prior to it being presented to the City Manager. If this were the case, the City Manager would not have approved a \$150,000 payment for work that was not commenced.
- B. An Engineer should never have approved the construction of restrooms at the Marina Park, without first having a way to hook it up to the County's sewer system. The possibility of tying it to a septic tank should never have been considered.
- C. An Engineer should have planned and scheduled the previous \$1.2 million Marina expenditure, including all permitting and bidding for contractors, and inspected all work prior to final payment.
- D. The City would not have had to do an emergency ordinance and emergency procurements at the last minute in order to meet Grant deadlines.
- E. An Engineer should have provided the Commission with preliminary pricing, permitting and scheduling for the \$990,000 Grant funds received (received 9 months late) and the City would be able to ask the State of Florida for a meaningful extension of Grant deadlines.
- F. An Engineer should never have suggested fixing one-half of the problems at the swimming pool and waiting to fix the remainder (twice the mobilization, pool drainage and loss of usage of pool).

- G. An Engineer should not have ignored the advice of Sea Diversified (the company hired by the City to advise on the appropriate foundation for the restaurant deck).
- H. An Engineer should not have put out for bid a deck with built-in safety hazards and incomplete specifications, resulting in the need for Change Orders to fix the obvious problems.
- I. An Engineer should not have ignored a broken sewer line, which the City was notified of months ago, and which could have pumped raw sewage into the Lake.
- J. An Engineer should have recommended the City fix the water line in the campground, which would have opened up an additional 40 or 50 campsites for this season, substantially increasing revenue to the City.
- K. An Engineer would not have recommended the expenditure of funds for work on the exterior of the Old High School without first determining if the structure was safe, or capable of being made safe without damaging the exterior improvements which have just been completed.

Most importantly, an Engineer would have given the City Commission and the City Manager proper advice so that these issues could have been avoided.

These are just a few of the problems that could have been avoided with appropriate engineering advice for the City Manager and the City Commission.

RECOMMENDATIONS:

- (a) Motion to instruct the City Clerk to advertise the attached RFQ for City Engineering Services.
- (b) Motion for the City Commission to establish a Selection Committee of professional engineers or contractors who have actual construction and/or engineering experience with municipal projects, and if none are available, to ask the Municipal League of Palm Beach County for assistance. (The Selection Committee members must know what an Engineer should do in order to determine if the candidates for the work are capable of doing it correctly.

This Selection Commission should be added to the next agenda under New Business.

5. OLD BUSINESS

(I would not have to list these items, if the recommendations made in Section 1 were adopted, as the City Clerk would automatically include the items on the next City agenda.)

- A. Status of Work Order for Scheduling Engineer (As of the date of this writing, a Work Order has not been issued; two more weeks have been wasted.

- B. Status of Work Order to write Comprehensive Plan for Marina (The City was told in February that this needed to be completed prior to the Marina project being moved to the Governor and Cabinet's agenda.)
- C. Status of Water Line Repair for the Campground
- D. Status of Restaurant Drain's Connection to Grease Trap
- E. Status of Pool Repairs (Second Set)
- F. Status of ADA Compliance for City Website and Livestreaming
- G. Status of Final Restaurant Repairs (water leaks in roof, walk-in cooler, gas line at Tiki Bar)
- H. Status of Plan and Cost Estimate for Completion of Dock Repairs, Handicapped Ramp Repairs, and Electrical Substation Repairs at Marina
- I. Marina Hurricane Protection Plan (I asked the Clerk to list this on the agenda; the City Manager refused to allow it on the agenda.)